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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

BY HAND

Ms. Jessica Rosenworcel
Federal Communications Commission
445 12th St., SW
Room 5-C221
Washington, D.C. 20554

**EX PARTE
PRESENTATION**

Re: CC Dkt. No. 01-277

Dear Ms. Rosenworcel:

We are writing on behalf of Birch Telecom, Inc. ("Birch") to respond to a specific point related to flow-through raised by BellSouth during its recent ex parte meetings with the Commissioners regarding its application for Section 271 authority for Georgia and Louisiana.

As Birch and other commenters have demonstrated, BellSouth's performance with respect to the percentage of orders that flow-through BellSouth's OSS is very poor. An order is considered to flow-through (and is thus considered "fully mechanized") if it is placed electronically by a CLEC using BellSouth's OSS interface and a firm order confirmation ("FOC") is returned by BellSouth without the order requiring any manual processing by BellSouth personnel. If there is a problem with BellSouth's OSS and the order cannot be processed entirely electronically, it "falls out" for manual processing and is categorized as "partially mechanized"—i.e. submitted electronically by the CLEC but manually processed by BellSouth.

Order flow-through is critical because it ensures that service orders are accurately processed by BellSouth. Service order accuracy is very high for fully mechanized orders—since no manual processing of the order by BellSouth personnel is required, there is no room for human error. The percentage of fully mechanized orders that contain BellSouth-introduced errors is well under one percent. By contrast, a full 30% of Birch's orders that do not flow-through and are subject to manual handling by BellSouth contain BellSouth-introduced errors.

In its recent meetings, BellSouth has apparently attempted to rebut the showings made by Birch and other CLECs with respect to BellSouth's flow-through performance by pointing to a 90% figure contained in its November 29, 2001 ex parte submission. On closer inspection, however, that 90% figure has nothing to do with BellSouth's flow-through rate. Rather, the 90% reflects the percentage of orders that "are actually placed mechanically." See BellSouth Ex Parte Presentation, CC Docket No. 01-277, at 10

(Nov. 29, 2001). In other words, the 90% figure addresses the percentage of orders initially submitted by CLECs electronically as opposed to manually.¹ It says nothing about what percentage of those mechanically-placed orders successfully flow-through BellSouth's OSS, which is what the flow-through metric measures.

When the correct metric—the percentage of total orders submitted mechanically that successfully flow-through—is examined, it is apparent that BellSouth's performance is nowhere near 90% (or even the applicable 85% benchmark). As the attached graph shows, with respect to UNE-based service orders (the type of order submitted by Birch),² the region-wide UNE flow-through percentage reported by BellSouth³ for the period from March 2001 to October 2001 has ranged from highs of just over 80% in March and April to a low of just 67.29% in July.⁴ BellSouth's flow-through performance with respect to Birch's orders has been even worse than its region-wide performance. BellSouth's data shows that in May, a mere 53.94% of the UNE orders submitted by Birch successfully flowed-through BellSouth's OSS, and in no month has BellSouth's performance exceeded 72%.

The Commission must not countenance this unacceptable level of performance. The benchmark for UNE order flow-through established by the Georgia Commission is 85%. There has not been a single month in which BellSouth has met that benchmark, either on a region-wide or a Birch-specific basis. Compared to the levels approved by the Commission with regard to Verizon's (95%) and Southwestern Bell's (retail parity) Section

¹ Typically, manual orders are submitted by fax.

² BellSouth groups both business and residential UNE orders into a single metric. BellSouth separately provides flow-through data for resale orders, broken down into separate metrics for residential and business customers. These three separate metrics (UNE, resale—residential, and resale—business) are also reported collectively in an aggregate flow-through metric. All four metrics are reported on both a region-wide and carrier-specific basis.

³ This is BellSouth's own data, taken directly from BellSouth's performance measures reports. The data reflects only orders that fall out because of deficiencies in BellSouth's OSS; orders that fall out because they were improperly submitted by the CLEC are not counted.

⁴ The affidavit of Alphonso Varner attached to BellSouth's initial application contained erroneous figures for June and July flow-through performance, reporting 78.33% and 90.00%, respectively, for UNE order flow-through, which BellSouth indicated it would be revising. (It is interesting to note that in the affidavit of William Stacy, also attached to the application, BellSouth reported an aggregate UNE flow-through rate of 81.35% for July.) It seems that only after Birch's initial Comments pointed out the errors in BellSouth's application did BellSouth restate those numbers. On October 25th and November 6th, BellSouth filed ex partes correcting the figures in its application. The attached chart reflects the corrected figures.

271 applications, the Georgia benchmark is already too low.⁵ If BellSouth is not held to even that lower benchmark, there will be no way to ensure that Birch and other CLECs will receive a level of performance that will enable them to compete effectively.

Nor should the Commission accept BellSouth's promises to do better as sufficient to support a grant of its application. While Birch believes that promises of future performance should never be sufficient to support a Section 271 application, it is certainly the case where, as here, there is no trend of improvement. With respect to both BellSouth's region-wide and Birch-specific performance, the UNE order flow-through rate was worse in October than it was eight months ago in March. Against this backdrop, BellSouth can hardly contend that its track record warrants grant of its application.

If you need any further information, or have any questions, please do not hesitate to call me.

Sincerely,

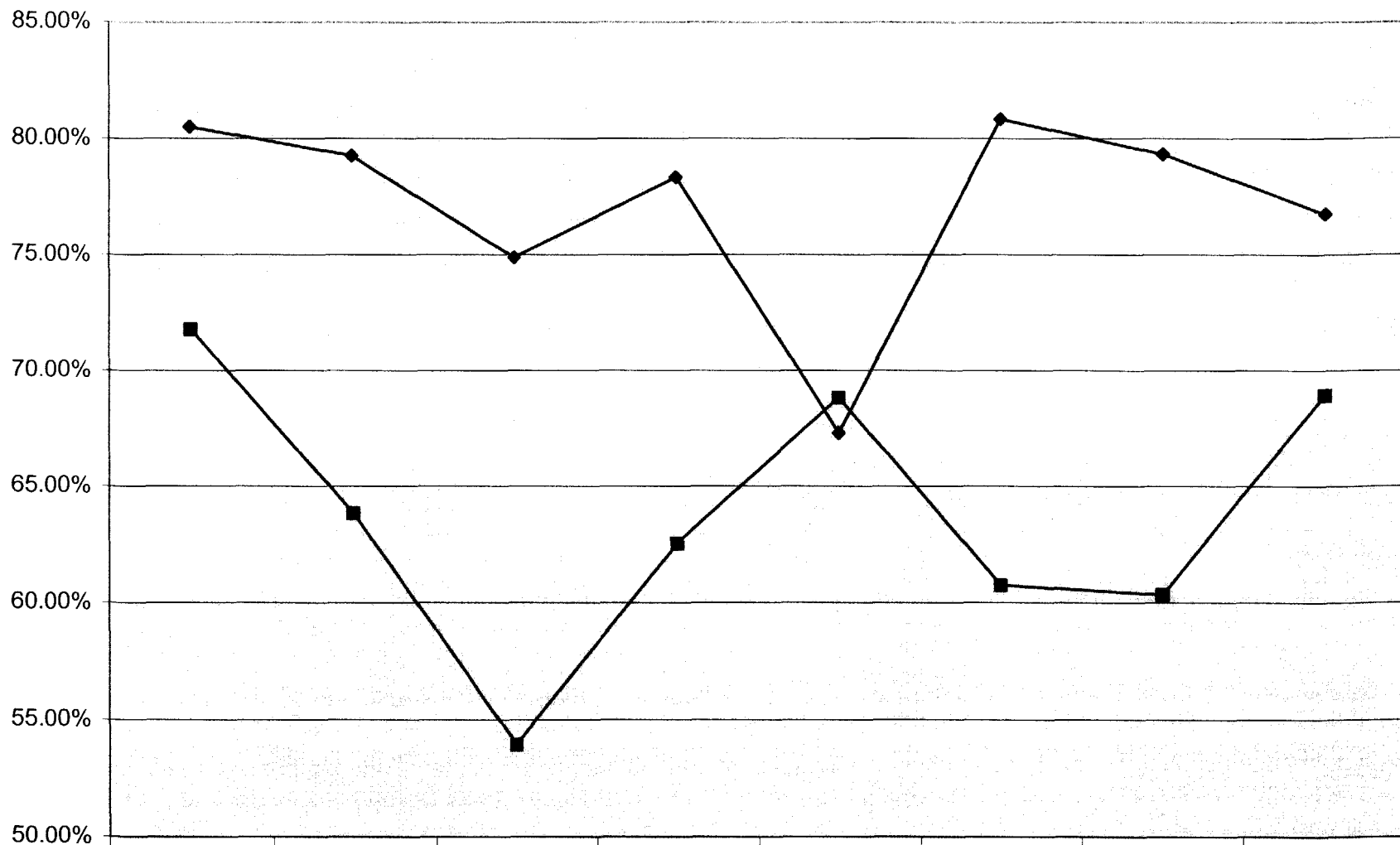

Jacob Farber

Enclosure

cc: Chairman Michael Powell
Commissioner Kathleen Abernathy
Commissioner Michael Copps
Commissioner Kevin Martin
Monica Desai
Kyle Dixon
Matthew Brill
Jordan Goldstein
Dorothy Attwood

⁵ BellSouth may contend that the 10% difference between 85% and 95% is relatively inconsequential. This is not the case. If 10,000 UNE orders were placed in a month in both Massachusetts and Georgia, and if it is assumed that the flow-through benchmarks were met exactly, then 500 orders would fail to flow-through in the Verizon state. By contrast, 1,500 orders—three times as many—would fail to flow through in Georgia. Moreover, a higher benchmark of 95% is especially important in Georgia due to the fact that BellSouth makes so many errors when it processes orders manually.

BellSouth Flow Through Performance



◆ UNE Region Wide	80.49%	79.25%	74.87%	78.33%	67.29%	80.82%	79.33%	76.74%
■ Birch UNE Georgia	71.77%	63.85%	53.94%	62.54%	68.81%	60.75%	60.34%	68.91%

Source: BellSouth PMAP Flow Through reports